

रजिस्टर्ड नं० एस० एम० १४.



राजपत्र, हिमाचल प्रदेश

(असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, मंगलवार, 29 जून, 1976/8 आषाढ़, 1898

GOVERNMENT OF HIMACHAL PRADESH

LABOUR DEPARTMENT

NOTIFICATION

Simla-171002, the 1st June, 1976

No 7-17/75-LEP-Shram.—The following draft of certain rules further to amend the Industrial Disputes (Himachal Pradesh) Rules, 1974, which the Governor of Himachal Pradesh proposes to make in exercise of the powers conferred by sub-section (1) of section 38 of the Industrial Disputes Act, 1947 (14 of 1947) is hereby published as required by that sub-section for the information of all persons likely to be affected thereby; and notice is hereby given that the said draft will be taken into consideration on or after the expiry of a period of ten days from the date of publication of the notification in the Official Gazette;

Any objections or suggestions which may be received from any person in respect of the said draft before the expiry of the period so specified will be considered by the Government of Himachal Pradesh.

DRAFT RULES

1. These rules may be called the Industrial Disputes (Himachal Pradesh) Amendment Rules, 1976.
2. In the Industrial Disputes (Himachal Pradesh) Rules, 1974,—
 - (a) after rule 80, the following rule shall be inserted, namely:—

“80A. Application for permission to lay off under section 25 M.—(1) Application for permission to lay off any workman under sub-section (1), or for permission to continue a lay off under sub-section (2), of section 25 M shall be made in Form U-1 and delivered to the authority specified under sub-section (1) either personally or by registered post acknowledgement due and where the application is sent by registered post the date on which the same is delivered to the said authority shall be deemed to be the date on which the application is made for the purposes of sub-section (4) of the said section.

(2) The application for permission shall be made in triplicate and sufficient number of copies of the application for service on the workmen concerned shall also be submitted alongwith the application.

(3) The employer concerned shall furnish to the authority to whom the application for permission has been made such further information as the authority considers necessary for arriving at a decision on the application, as and when called for by such authority, so as to enable the authority to communicate the permission or refusal to grant permission within the period specified in sub-section (4) of section 25 M.

(4) Where the permission to lay off has been granted by the said authority, the employer concerned shall give to the Conciliation Officer concerned, a notice of commencement and termination of such lay off in Form T and U respectively and where permission to continue a lay off has been granted by the said authority, the employer shall give to the Conciliation Officer concerned a notice of commencement of such lay off in Form T, in case such a notice has not already been given under sub-rule (1) of Rule 80 and a notice of termination of such lay-off in Form “U”.

(5) The notice of commencement and termination of lay off referred to in sub-rule (4) shall be given within the period specified in sub-rule (1) of rule 80.

(b) Rule 81-A shall be re-numbered as Rule 81-B and—

(i) before rule 81-B as so re-numbered, the following rule shall be inserted, namely:—

81A. Notice of, and application for permission for retrenchment.—(1) Notice under clause (c) of sub-section (1) of section 25 N for retrenchment shall be served in Form V-A and served on the State Government or such authority as may be specified by that Government under the said clause either personally or by registered post acknowledgement due and where the notice is served by registered post, the date on which the same was delivered to the State Government or the authority shall be deemed to be the date of service of the notice for the purposes of sub-section (3) of the said section.

(2) Application for permission for retrenchment under sub-section (4) of section 25-N shall be made in Form V-B (with attested copy of the notice given by the employer under clause (c) of section 25F appended thereto) and delivered to the State Government or to such authority as may be specified by that Government either personally or by registered post acknowledgement due and where the application is sent by registered post the date on which the same was delivered to the State Government or the authority shall be deemed to be the date on which the application was made for the purposes of sub-section (5) of the said section.

(3) The notice or, as the case may be; the application shall be served or made in triplicate and sufficient number of copies of the application for service on the workmen concerned shall be submitted alongwith the notice or, as the case may be, the application.

(4) The employer concerned shall furnish to the State Government or the authority to whom the notice for retrenchment has been given or the application for permission for retrenchment has been made, under clause (c) of sub-section (1) or, as the case may be, sub-section (4) of the said section of 25 N, such further information as the State Government or, as the case may be, the authority considers necessary for arriving at a decision on the notice or, as the case may be, the application as and when called for by such authority, so as to enable the State Government or the authority to communicate its permission or refusal to grant permission within the period specified in sub-section (3) or, as the case may be, sub-section (5) of the said section 25-N."

(ii) after rule 81-B as so renumbered the following rule shall be inserted, namely:—

81C. Notice of, and application for permission for, closure.—(1) Notice under sub-section (1) of section 25-Q intended closure shall be given in Form 'X' and served on the State Government either personally or by registered post acknowledgement due.

(2) Application for permission to close down an undertaking, under sub-section (3) of section 25-Q, shall be made in Form Y (with attested copy of the notice served by the employer under sub-section (1) of section 25FFA appended thereto) and delivered to the State Government either personally or by registered post acknowledgement due and where the application is sent by registered post the date on which the same was delivered to the State Government shall be deemed to be the date on which the application was made for the purposes of sub-section (4) of the said section.

(3) The notice, or, as the case may be, the application shall be made in triplicate.

(4) The employer concerned shall furnish to the State Government to whom the notice of intended closure has been given or the application for permission to close down has been made such further information as that Government considers it necessary, for arriving at a decision on the notice, or as the case may be, the application, and calls for from such employer."

(c) After Form U, the following form shall be inserted, namely:—

FORM U-1

(To be submitted in triplicate with additional number of copies for service on the workmen concerned.

[See Rule 80 A(1)]

Form of application for permission to lay off workmen in industrial establishments
to which provisions of Chapter VB of the Industrial Disputes Act, 1947
(14 of 1947) apply

To

.....
.....
.....

(The authority specified under sub-section (1) of section 25-M of the Act) i.e. the Labour Commissioner, Himachal Pradesh.

Sir,

Under sub-section (1)/sub-section (2) of section 25 M of the Industrial Disputes Act, 1947 (14 of 1947) read with sub-rule (1) of rule 80-A of the Industrial Disputes (Himachal Pradesh) Rules, 1974, I/we hereby apply for *permission to lay off/permission to continue the lay off of..... workmen of a total of..... workmen employed in my/our establishment with effect from..... for the reasons set out in the Annexure.

Permission is solicited* for the lay off/to continue the lay off of the said workmen.

Such of the workmen permitted to be laid off will be paid such compensation, if any, to which he is entitled under sub-section (6) of section 25 M, read with section 25 C of the Industrial Disputes Act, 1947 (14 of 1947).

Yours faithfully,

(Signature).

ANNEXURE

Item No.

1. Name of the undertaking with complete postal address including telegraphic addresses and telephone number.
2. (a) *Names and addresses of the affected workmen proposed to be laid off/names and addresses of the workmen laid before the commencement of the Industrial Disputes (Amendment) Act, 1976 (32 of 1976) and the dates from which each of them have been laid off.
(b) The nature of the duties of the workmen referred to in sub-item (a), the units/sections/shops where they are working and the wages drawn by them.
3. Product/products of the undertaking.
4. Details relating to installed capacity, Licenced capacity and utilised capacity.
- 5. (i) Annual production, item-wise for preceding three years.
(ii) Production figures, month-wise, for the preceding twelve months.
6. Work-in-progress, item-wise and value-wise.
7. Any arrangements regarding off-loading or sub-contracting of products or any components thereof.
8. Position of the order book, item-wise and value-wise for a period of six months, and one year next following and for the period after the expiry of the said one year.
9. Number of working days in a week with the number of shifts per day and the strength of workmen per each shift.
10. Balance-sheets, profit and loss accounts and audit reports for the last three years.
11. Financial position of the company.
12. Names of the inter-connected companies or companies under the same management.

*Strike out whatever is inapplicable.

Item No.

13. (i) The total number of workmen and the number of employees other than workmen as defined under the Industrial Disputes Act, 1947 (14 of 1947), employed in the undertaking.
(ii) percentage of wages of workmen to the total cost of production.
14. Administrative, general and selling cost in absolute terms per year in the last three years and percentage thereof to the total cost.
15. Details of lay-offs resorted to in the last three years (other than the lay-offs for which permission is sought), including the periods of such lay-offs, the number of workmen involved in each such lay-off and the reasons therefor.
16. Anticipated savings due to the *proposed lay-off/lay-off for the continuance of which permission is sought.
17. Any proposal for effecting savings on account of reduction in—
(i) Managerial remuneration,
(ii) sales promotion cost, and
(iii) general administration expenses.
18. Position of stocks on last day of the month in the preceding twelve months.
19. Annual sales figures for the last three years and month-wise sales for the preceding twelve months, both item-wise and value-wise.
20. Reasons for the “proposed lay-off/lay-off for the continuance of which permission is sought.
21. Any specific attempts made so far to avoid the *proposed lay-off /lay-off for the continuance of which permission is sought.
22. Any other relevant factors with details thereof.

(d) After Form V, the following forms shall be inserted namely:—

FORM VA

(to be made in triplicate with additional number of copies for service on the workmen concerned)

[See Rule 81-A (1)]

Form of notice for permission for retrenchment of workmen to be given by an employer under clause (c) of sub-section (1) of section 25-N of the Industrial Disputes Act, 1947 (14 of 1947)

Date.....

To

.....
.....
.....

(The State Government/Authority specified under clause (c) of sub-section (1) of section 25 No of the Act).

*Strike out whatever is inapplicable.

Sir,

Under clause (c) of sub-section (1) of section 25 N of the Industrial Disputes Act, 1947 (14 of 1947), I/we hereby inform you that I/we propose to retrench workmen (being workmen to whom sub-section (1) of section 25 N applies) with effect from.....
.....* * for the reasons set out in the Annexure.

The workmen concerned have been given notice in writing as required under clause (a) of sub-section (1) of section 25 N of the Act/have not been given notice since the retrenchment being proposed to be effected under an agreement (a copy of which is enclosed) as provided in the proviso to the said clause.

3. The total number of workmen employed in the industrial establishment is..... and the total number of those who will be effected by the proposed retrenchment is as given below:—

Category and designation of workmen to be retrenched (1)	Number of workmen	
	Employed (2)	To be retrenched (3)

4. Permission is solicited for the proposed retrenchment under clause (c) of sub-section (1) of section 25 N of the Industrial Disputes Act, 1947 (14 of 1947).

ANNEXURE

(Please give replies against each item)

Item No.

1. Name of the undertaking with complete postal address, including telegraphic addresses and telephone No.
2. Names and addresses of the workmen proposed to be retrenched and the nature of their duties, the units/sections/shops where they are working and the wages drawn by them.
3. Product/products of the undertaking.
4. Details, relating to installed capacity, licenced capacity and the utilised capacity.
5. (i) Annual production, item-wise for proceeding three years.
(ii) Production figures month-wise for the proceeding twelve months.
6. Work in progress item-wise and value wise.
7. Any arrangement regarding off-loading or sub-contracting of products or any components thereof.
8. Position of the order book item-wise and value-wise for a period of six months, and one year next following and for the period after the expiry of the said one year.
9. Number of working days in a week with number of shifts per day and strength of workmen per each shift.
10. Balance Sheet; profit and loss account and audit reports for the last three years.

Item No.

11. Financial position of the company.
12. Names of the inter-connected companies or companies under the same management.
13. (i) The total number of workmen and the number of employees other than workmen as defined in the Industrial Disputes Act, 1947 (14 of 1947) employed in the undertaking.
(ii) Percentage of wages of workmen to the total cost of production.
14. Administrative, general and selling cost in absolute terms per for the last three years and percentage thereto to the total costs.
15. Details of retrenchment resorted to in the last three years, including dates of retrenchment the number of workmen involved in each case, and the reasons therefor.
16. Has any of the retrenched workmen been given re-employment and if so, when? Give details.
17. Are seniority lists maintained in respect of the categories or workmen proposed to be retrenched and if so, the details and the position of the workmen effected indicating their length of service including broken periods of service.
18. Anticipated savings due to the proposed retrenchment.
19. Any proposal for effecting savings on account of reduction in:
(i) managerial remuneration,
(ii) sales promotion cost, and
(iii) administration expenses.
20. Position of stock on the last day of the month in the proceeding twelve months.
21. Annual sales figures for the last three years and month-wise sales figures—for the proceeding twelve months for item-wise and value-wise.
22. Reasons for the proposed retrenchment.
23. Any specific attempt made so far to avoid the proposed retrenchment.
24. Any other relevant factors with details thereof.

FORM VB

(to be made in triplicate with additional number of copies for service on the workmen concerned)

[See Rule 81A (2)]

Form of application for permission for retrenchment of workmen in case where at the commencement of the Industrial Disputes (Amendment) Act, 1976 (Act

32 of 1976) the period of notice given under clause (a) of section, 25 F for the retrenchment has not expired.

Date.....

To
.....

(The State Government/authority referred to in sub-section (2) of section 25 N of the Act) i.e. the Labour Commissioner in Himachal Pradesh.

Sir,

I/We have given notice on.....under clause (a) of section 25 F for the retrenchment of the workman/workmen specified below (Attested copy/ copies of the notice is/are appended hereto):—

Name and addresses of workmen (1)	Category and designation (2)
.....

2. The period of notice referred to above has not expired.

3. I/We hereby solicit permission for the retrenchment of the workmen referred to above under sub-section (4) of section 25 N of the Industrial Disputes Act, 1947 (14 of 1947) for the reasons set out in the Annexure.

Yours faithfully,

(Signature).

ANNEXURE

(Please give replies against each item)

Item No.

1. Name of the undertaking with complete postal address; including telegraphic addresses and telephone number.
2. (a) Names of the workmen proposed to be retrenched and the nature of their duties; the units/sections/shops where they are working and the wages drawn by them.
(b) Date of the notice of retrenchment given to the workmen concerned under section 25 F (a) and the dates on which the said notice was served on each workmen concerned.
3. Product/Products of the undertaking.
4. Details relating to installed capacity; licensed capacity and the utilised capacity.
5. (i) Annual production; item-wise for preceding three years.

Item No.

(ii) production figures month-wise for the preceding twelve months.

6. Work in progress—item-wise and value-wise.
7. Any arrangement regarding off-loading or sub-contracting of products or any components thereof.
8. Position of the order book item-wise and value-wise for a period of six months and one year; next following and for the period after the expiry of the said one year.
9. Number of working days in a week with number of shifts per day and strength of workmen per each shift.
10. Balance sheet; profit and loss account and audit reports for the last three years.
11. Financial position of the company.
12. Names of the inter-connected companies or companies under the same management.
13. (i) The total number of workmen and the number of employees other than workmen as defined in the Industrial Disputes Act, 1947 (14 of 1947) employed in the undertaking.
(ii) Percentage of wages of workmen to the total cost of production.
14. Administrative; general and selling cost in absolute terms per year for the last three years and percentage thereof to the total cost.
15. Details of retrenchment resorted to in the last three years; including the dates of retrenchment; the number of workmen involved in each case and the reasons therefor.
16. Has any of the retrenched workmen been given re-employment and if so; when, give details.
17. Are seniority lists maintained in respect of the categories of workmen proposed to be retrenched and if so; the details and the position of the workmen affected indicating their length of service including broken periods of service.
18. Anticipated savings due to the proposed retrenchment.
19. Any proposal for effecting savings on account of reduction in—
 - (i) managerial remuneration,
 - (ii) sales promotion cost, and
 - (iii) general administration expenses.
20. Position of stock on the last day of the month in the preceding twelve months.
21. Annual sales figures for the last three years and month-wise sales figure for the preceding twelve month—both item-wise and value-wise.
22. Reasons for the proposed retrenchment.
23. Any specific attempt made so far to avoid the proposed retrenchment.
24. Any other relevant factors with details thereof.”.

(c) After Form W, the following forms shall be inserted namely.

FORM X

(To be submitted in triplicate)

[See rule 81 C (1)]

Form of notice for permission of closure to be given by an employer under sub-section (1) of section 25.0 of the Industrial Disputes Act, 1947 (14 of 1947).

Date.....

To

The Secretary (Labour) to the
Government of Himachal Pradesh,
Simla-171002.

Sir,

Under section 25-0 of the Industrial Disputes Act, 1947 (14 of 1947) I/We hereby inform you that I/We propose to close down the undertaking specified below of (name of the Industrial establishment).

(Give details of the undertaking)

.....
.....
.....

with effect from..... for the reasons explained in the Annexure.

2. The number of workmen whose services will be terminated on account of the closure of the undertaking is..... (number of workmen).

3. Permission is solicited for the proposed closure.

4. I/We hereby declare that in the event of approval for the closure being granted, every workmen in the undertaking to whom sub-section 7 of the said section 25-0 applies will be given notice and paid compensation as specified in section 25N of the Industrial Disputes Act, 1947 (14 of 1947) as if the workmen had been retrenched under that section.

Yours faithfully,

(Signature).

ANNEXURE

(Please give replies against each item)

Item No.

1. Name of the industrial establishment with complete postal address, including telegraphic addresses and telephone number.
2. The total number and categories of workmen affected by the proposed closure, along with the addresses of the workmen and the details of wages drawn by them.
3. Product/products of the undertaking.
4. Details relating to licensed capacity, installed capacity and the utilised capacity.

Item No.

5. (i) Annual production item-wise for preceding three years.
(ii) Production figures month-wise for the preceding twelve months.
6. Work in progress item-wise and value-wise.
7. Any arrangement regarding off-loading or sub-contracting of products or any component thereof.
8. Details of persons or the organisations to whom the job(s) is(are) being entrusted relationship/interest of the persons/organisations with the director(s) or the officer(s) of the company.
9. Position of the order book—item-wise and value-wise for a period of six months, and one year, next following and for the period after the expiry of the said one year.
10. Number of working days in a week with the number of shifts per day and the strength of workmen per each shift.
11. Balance sheet and profit and loss account and audit reports for the last three years.
12. Financial position of the company.
13. (i) Names of any inter-connected company or companies under the same management.
(ii) Details about inter-corporate investments and changes during the last one year.
(iii) Interest of any of the directors/officers of the undertaking producing same or similar type of products.
14. Percentage of wages of workmen to the total cost of production.
15. Administrative, general and selling cost in absolute terms per year for the last three years and percentage thereof to the total cost.
16. Inventory position—item-wise and value-wise for the preceding twelve months. Inventories to be shown in respect of finished products, components and raw-materials to be shown separately item-wise and value-wise.
17. Selling arrangement for the last three years and any change in the selling arrangement in preceding twelve months.
18. Full details of the interests of the directors and officers of the company in the organisations/persons involved in selling products of the undertaking.
19. Buying arrangements for the raw materials and components.
20. Interests of the directors and officers with the organisations/persons involved in buying raw materials and components for the undertaking.
21. Annual sales figures for the last three years and month-wise sales figures for the preceding twelve months both item-wise and value-wise.
22. Reasons for the proposed closure.
23. Any specific attempts made so far to avoid the closure.
24. Any other relevant factors with details thereof.

FORM K

(To be submitted in triplicate)

[See Rule 81 C (2)]

Form of application for permission to close down an undertaking in case where at the commencement of the Industrial Disputes (Amendment) Act, 1976 (Act 32 of 1976), the period of notice given under sub-section (1) of section 25FFA of intention to close down an undertaking has not expired.

Date.....

To

The Secretary (Labour)
to the Government of Himachal Pradesh,
Simla-171002.

Sir,

I/We have given notice on.....under sub-section (1) of section 25FFA of our intention to close down an undertaking specified below of (name of industrial establishment)
(Attested copy of the notice is appended hereto).

(Give details of the undertaking).

.....
.....
.....

2. The period of the notice referred to above has not expired.

3. I/We hereby solicit permission to close down the said undertaking under sub-section (3) of section 25-0 of the Industrial Disputes Act, 1947 (14 of 1947) for the reasons set out in the Annexure.

4. I/We hereby declare that in the event of permission for the closure being granted workman in the undertaking to whom sub-section (7) of the said section 25-0 applies will be given notice and paid a compensation as specified in section 25 N of the Industrial Disputes Act, 1947 (14 of 1947) as if the workmen had been retrenched under that section.

Yours faithfully,

(Signature).

ANNEXURE

(Please give replies against each item).

Item No.

1. Name of the industrial establishment with complete postal address, including telegraphic addresses and telephone number.

Item No.

2. Date of the notice under sub-section (1) of section 25FFA and the date on which the said notice was served on the appropriate Government.
3. The total number and categories of workmen affected by the proposed closure, alongwith the addresses of the workmen and details of wages drawn by them.
4. Product/products of the undertaking.
5. Details relating to licensed capacity, installed capacity and the utilised capacity.
6. (i) Annual production item-wise for preceding three years,
(ii) Production figures month-wise for the preceding twelve months.
7. Work in progress—item-wise and value-wise.
8. Any arrangement regarding off-loading or sub-contracting of products of any component thereof.
9. Details of persons of the organisations to whom the job(s) is (are) being entrusted—relationship/interest of the persons/organisations with the director(s) or the officer(s) of the company.
10. Position of the order book-item-wise and value-wise: for a period of six months, and one year, next following and for the period after the expiry of the said one year.
11. Number of working days in a week with the number of shifts per day and the strength of workmen per each shift.
12. Balance sheet and profit and loss account and audit-reports for the last three years.
13. Financial position of the company.
14. (i) Name of any inter-connected company or companies under the same management.
(ii) Details about inter-corporate investments and changes during the last one year.
(iii) Interest of any of the directors/officers of the undertaking producing same or similar type of product.
15. Percentage of wages of workmen to the total cost of production.
16. Administrative, general and selling cost of absolute terms per year for the last three years and percentage thereof to the total cost.
17. Inventory position—item-wise and value-wise for the preceding twelve months. (Inventories to be shown in respect of finished products, components and raw material to be shown separately item-wise and value-wise.
18. Selling arrangement for the last three years and any change in the selling arrangement in preceding twelve months.

19. Full details of the interests of the directors/officers of the company in the organisations/persons involved in selling products of the undertaking.
20. Buying arrangement for the raw-materials and components.
21. Interests of the directors and officers with the organisations/persons involved in buying raw materials and components for the undertaking.
22. Annual sales figures for the last three years and month-wise sales figures for the preceding twelve months, both item-wise and value-wise.
23. Reasons for the proposed closure.
24. Any specific attempts made so far to avoid the closure.
25. Any other relevant factors with details thereof.

By order,
ANANG PAL,
Secretary.